IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFAs No. 276 to 278 of 2019, 184 of 2021 & 85 of 2022

Reserved on: 20.12.2025
Date of decision: 05.01.2026

---

1. RFA No. 276 of 2019:

General Manager Northern Railway .....Appellant.
Versus
Hari Chand & others
……Respondents.

2. RFA No. 277 of 2019:

General Manager Northern Railway .....Appellant.
Versus
Raj Kumar (since deceased through LRs) & others
……Respondents.

3. RFA No. 278 of 2019:

General Manager Northern Railway .....Appellant.
Versus
Gurdial Chand (since deceased through LRs) & another

……Respondents.

4. RFA No. 184 of 2021:

General Manager Northern Railway .....Appellant.
Versus
Banwari Lal & others
……Respondents.

5. RFA No. 85 of 2022:

General Manager Northern Railway .....Appellant.
Versus
Parwati (since deceased through LRs) & others
……Respondents.

Coram
The Hon'ble Mr. Justice Sushil Kukreja, Judge.
[1] *Whether approved for reporting?*

For the appellant(s): Mr. Shiv Pal Manhas, Senior Panel counsel.

For the respective respondents:

Mr. Y.P. Sood, Advocate, for respondents No. 1 & 2, in RFA No. 276 of 2019, for respondents No. 1(q) to 1(c) and 2, in RFA No. 277 of 2019, for respondents No. 1(a) & 1(b), in RFa No. 278 of 2019 and for respondents No. 1 to 4, in RFA No. 184 of 2021.

Ms. Vandana Thakur and Mr. Rupankush Nagal, Advocates, vice Mr. Surinder Saklani, Advocate, for respondents No. 1(a) to 1(f), in RFA No. 85 of 2022.

Sushil Kukreja, Judge.

Since all these appeals are interlinked, as the same are offshoots of Award, dated 10.10.2017, passed by learned District Judge, Una, District Una, H.P. (hereinafter referred to as the "learned Reference Court") and the land in question was acquired for the same public purpose, i.e., for laying Nangal-Talwara Broad Gauge Railway Line, they are being taken up together for disposal.

2. The instant appeals have been filed by the

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

appellant-General Manager, Northern Railway, under Section 54 of the Land Acquisition Act, 1894 (for short "the Act"), assailing award dated 10.10.2017, passed by the learned Reference Court, in different reference petitions filed by the petitioners/claimants.

3. The brief facts giving rise to the instant appeals are that Department of Planning, issued a notification under Section 4 of the Act for construction and laying of Nangal-Talwara Broad Gauge Railway Line, in revenue estate Hamboli, Tehsil Amb, District Una and had notified the following properties of the petitioners for acquisition:

Sr. No.	Title and number of the appeal	Khewat/khata uni No.	Khasra No.	Area
1.	Hari Chand etc. vs. LAC RFA No. 276 of 2019	343/562	1014/2 1015	0-05-41 0-02-60
2.	Raj Kumar etc. vs. LAC RFA No. 277 of 2019	233/393	1001/1 1003/2 1004/4 1010/1 1010/2	0-00-02 0-03-97 0-16-68 0-00-30 0-00-64
3.	Gurdial Chand vs. LAC RFA No. 278 of 2019	270/448,270/449	2267/2 2268/2	0-04-19 0-05-15
4.	Banwari Lal etc. vs. LAC RFA No. 184 of 2021	186/315 min	487 493 498/2/1 499 50/2/1	0-01-30 0-12-64 0-07-17 0-01-27 0-02-38
5.	Parwati vs. LAC RFA No. 85 of 2022	283/464	490/1	0-07-95

4. The notification under Section 4 of the Act was issued on 01.12.2000, which was published in H.P. Government Gazette on 16.12.2000. Thereafter, notification under Section 6 of the Act was issued on 20.03.2001, which

was published in H.P. Government Gazette on 31.03.2001. The Collector Land Acquisition, after considering the evidence and objections of the petitioners/claimants and other land-owners, assessed the market value of different kinds of land as under:

Sr. No.	**Kind of land**	**Price per kanal as per parta**
1.	Chahi	Rs.17646-50
2.	Do fasi awal	Rs.9325-38
3.	Ek fasli awal and do fasli doyam	Rs.9325-38
4.	Banzar kadim jaded	Rs.1099-91
5.	Kharkana	Rs.1099-91
6.	Gair mumkin abadi	Rs.7646-50
7.	Other gair mumkin	Rs.1099-98

5. The claimants, being dissatisfied with the compensation amount, preferred petitions under Section 18 of the act before the learned Reference Court, wherein they pleaded that the acquired land was irrigated land, it was surrounded by *abadies,* near Una-Dharamshala State Highway and also abutting Dhussara to Chururu link road and village Gohar. The acquired land was valuable and it was fit for raising amusement parks and it was situated in the vicinity of Chururu and Takarla Railway Station. They further pleaded that many government buildings, like village community health center, patwarkhana and middle school

were located near the same. The petitioners also averred that due to severance of land due to acquisition, the value of the remaining land was decreased by 75%. Lastly, the petitioners/claimants sought compensation @ Rs.25,000/- per marla.

6. At the very outset, it would be apt to mention that the learned Reference Court earlier announced award on 30.09.2011, against which an appeal was preferred before this Court. The co-ordinate Bench of this Court, vide order dated 28.04.2017 set-aside the aforesaid award dated 30.09.2011 and remanded the case back to the learned Reference Court with liberty to the parties to lead the evidence. Thereafter, after leading evidence, impugned award dated 10.10.2017, was passed by the learned Reference Court, whereby the reference petitions of the petitioners/claimants and other claimants therein were allowed and compensation @ Rs.1,30,000/- per kanal, irrespective of the classification of the land, as per the respective shares of the petitioners/claimants, was granted alongwith solatium, additional compensation and interest. Hence, the instant appeals preferred by the appellant.

7. I have heard the learned Senior Panel Counsel

for the appellant, learned counsel for the respective respondents, learned Deputy Advocate General for the respondent/State and also carefully examined the records.

8. Learned Senior Panel Counsel for the appellant(s) contended that impugned award, dated 10.10.2017, is bad in law and the same suffers from material irregularities and illegalities, as it was passed without considering the oral as well as documentary evidence, which resulted in miscarriage of justice. He further contended that the learned Reference Court had erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land

9. On the other hand, the learned counsel for the respective respondents supported the impugned award and contended that the Reference Court had awarded adequate compensation. They prayed that the appeals, being devoid of merits, be dismissed.

10. As per the settled principle of law, compensation for the land acquired has to be determined at market value. Market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its

potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. The determination of market value is the prediction of an economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality.

11. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs & others v. State of Gujarat (1989) 4 SCC 250,*** the Hon'ble Supreme Court held that the market value of a property for the purpose of Section 23 of the Act is the price at which the property changes hands from a willing seller to a willing purchaser, but not too anxious a buyer, dealing at arms length. The relevant portion of the aforesaid judgment reads as under:

> ***"4. …….The market value of a piece of property for purpose of Section 23 of the Land Acquisition Act is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value."***

12. In ***Atma Singh & others vs. State of Haryana & another (2008) 2 SCC 568,*** the Hon'ble Supreme Court held that the market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing conditions with all its existing advantages and its potential possibilities when led out in most advantages manner, excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value, disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The question whether a land has potential value or not, is primarily one of the facts depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like, water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration. The relevant portion of the aforesaid judgment reads as under:

> ***"4. ……The expression "market value" has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property***

having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm's length nor façade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value.

5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration."

13. In ***Union of India vs. Pramod Gupta (dead) by LRs & others, 2005 (12) SCC 1,*** the Hon'ble Supreme Court held that the best method, as is well-known, would be the amount which a willing purchaser would pay to the owner of the land. In the absence of any direct evidence, the Court, however, may take recourse to various other known methods. Evidence admissible therefor inter alia would be the sale deeds, judgments and awards passed in respect of acquisitions of lands made in the same village and/or

neighboring villages. Such a judgment/award in the absence of any other evidence like deed of sale, report of the expert and other relevant evidence would have only evidentiary value. The relevant portion of the aforesaid judgment reads as under:

> ***"24 While determining the amount of compensation payable in respect of the lands acquired by the State, the market value therefor indisputably has to be ascertained. There exist different modes therefor.***
>
> ***25. The best method, as is well known, would be the amount which a willing purchaser would pay to the owner of the land. In absence of any direct evidence, the court, however, may take recourse to various other known methods. Evidences admissible therefor inter alia would be judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment and award, in the absence of any other evidence like the deed of sale, report of the expert and other relevant evidence would have only evidentiary value."***

14. Thus, in absence of any direct evidence, the court, may take recourse to judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. In the instant case, while assessing the market value of the land under acquisition, the learned Reference court had relied upon the copy of award, Ex. P-16, which pertains to Mohal Bhera, wherein the value of the land was assessed for the purpose of compensation @ Rs.1,30,000/- per kanal. The petitioner have also examined Shri Bhajan Lal, the then Patwari, as PW-6, who

produced on record certificate, Ex. PW-6/A, which shows that Mohal Bhera is adjoining to Mohal Hamboli. He further stated that railway line had gone from Mohal Bhera to Mohal Hamboli. Similarly, PW-7 Gurdial, the then vice President of Gram Panchayat Bhera, deposed that Hamboli village was near to his village Bhera. This witness further deposed that physical condition and potential value of the land of all Mohals was similar. Since, as per the evidence on record and also as per certificate, Ex.PW-6/A, Mohal Bhera is adjoining to Mohal Hamboli, the learned Reference Court had rightly assessed the market value of the land in question@ Rs.1,30,000/- per kanal on the basis of award, Ex. P16.

15. The learned Counsel for the appellant next contended that the Reference Court had erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land. However, this contention of the learned counsel for the appellant is devoid of any force, as it is a settled law that where the entire area is similarly situated, the value of the land under acquisition is to be assessed as a single unit irrespective of its classification and nature ignoring the purpose to which it was being put prior to

the acquisition, as well as to the one it is likely to be put thereafter. In ***Gulabi & etc. vs. State of H.P., AIR 1998 HP 9***, it has been held as under:

> ***"As a result of this discussion it is held that the market value of the land on the date of acquisition is Rs.4,000/- per biswa. In this context it is further held that the value of the land under acquisition is to be assessed irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter, Consequently, the appellants are held entitled to compensation at the rate of Rs. 4,000/- per biswa uniformally for all qualities of land and it is ordered accordingly. In taking this view, we are guided by the judgment of the Hon"ble Apex Court reported in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, and the relevant abstracts from the said judgment are as under (paras 7, 11, 13):--***
>
> ***"In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant Notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. A fully developed small plot in a important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. By comparing the price shown in the transactions all variables have to be taken into consideration. The transaction in regard to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction.***
>
> ***The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in***

> ***an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.***
>
> ***The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.***
>
> ***In the instant case it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. Therefore, no deduction could be made on ground, that large tract of land is required."***

16. In ***Land Acquisition Officer vs. L Kamalamma (1998) 2 SCC 385, H.P. Housing Board vs. Ram Lal & others 2003(3) Sim.L.C. 64, Executive Engineer & Anr. vs. Dilla Ram Latest HLJ 2008 (HP) 1007***) it was held that when the entire land acquired belongs to one block, classification of the same into different categories is not reasonable. In case acquired land is to be used/developed as a single unit for a purpose having no relevancy with quality of land, the classification of land completely loses its significance.

17. Therefore, in view of the aforesaid authoritative pronouncements of law, the contention of the learned Counsel for the appellants that the learned Reference Court had erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land deserves to be rejected, as in the instant case also the land has been acquired as the single unit for the public purpose, i.e., for construction of Nangal-Talwara Broad Gauge Railway Line.

18. Hence, in view of what has been discussed hereinabove, no fault can be found in the impugned award dated 10.10.2017, passed by the learned Reference Court. Therefore, the instant appeals, being devoid of merits, deserve dismissal and are accordingly dismissed.

Pending application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

5th January, 2026
(virender)